REMARKS

This Amendment and Request for Reconsideration is submitted in response to an outstanding Office Action dated August 5, 2008, the shortened statutory period for response having expired on November 5, 2008. Accordingly, a Petition and Fee for Extension of time are included herewith.

The Examiner has objected to the drawings as filed and has required formal drawings. Formal drawings on 3 sheets are included herewith.

I.   Status of the Claims

Please amend claims 1, 2, 5, 11, 13, 15, 16, 20, 22-26, and 32 without prejudice and as indicated above. Claims 1-32 are now pending in the application. Claims 1, 13, 26 and 32 are independent claims.

II.   Rejections under 35 U.S.C. § 101

The Examiner has rejected claims 1-32 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner has argued that precedent requires process claims to be tied to another statutory class or transform underlying subject matter. Applicants disagree with the Examiner's interpretation of the cited precedent and also note that a pending appeal to the Federal Circuit may resolve this question and others regarding patentable subject matter. Accordingly the Examiner's rejection under § 101 is premature. However, in the interest of advancing the claims to allowance, the claims have been amended without prejudice to tie the claimed process to what the Examiner regards as statutory subject matter in the form of a programmed computer. Withdrawal of the § 101 rejections is requested.

III.   Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1 and 11-14 under 35 U.S.C. § 102 as being

anticipated by U.S. Patent Publication No. 2004/0225536 to *Schoen*. The Examiner states that *Schoen* discloses all of the claimed features.

As amended, independent claim 1 recites: A method implemented at least partially in a programmed computer for a single stable value fund to provide stable value, the method comprising: the single stable value fund agreeing to provide a first stable return to a first entity, the first stable return correlated to a first plurality of life insurance policies; the single stable value fund agreeing to provide a second stable return to a second entity, the second stable return correlated to a second plurality of life insurance policies; and combining aspects of the first and second agreements, wherein the combined aspects of the first agreement and the second agreement automatically distributes some risk of early withdrawal by the first entity to the second entity.

Applicants first note that in *Schoen*, the central concept is distribution of stable value risk across a plurality of stable value providers in order to reduce risk of a single stable value provider defaulting or becoming insolvent. (*See e.g.* [0022]). That basic concept in *Schoen* does not disclose the claimed single stable value fund, and in fact teaches away from the claimed single stable value fund. Accordingly, the rejection of claim 1 over *Schoen* under § 102 is not supported and should be withdrawn. Claims 2-12 depend directly or indirectly from claim 1 and are allowable for the same reason.

As amended, independent claim 13 recites: A method implemented at least partially in a programmed computer for a single stable value fund to provide stable value, the method comprising: creating a single stable value fund to provide a plurality of stable returns to a plurality of entities, the stable returns correlated to a plurality of life insurance policies; and automatically receiving investments in the single stable value fund using the programmed

computer, wherein <u>participation in the single stable value fund distributes some risk of early</u>

<u>withdrawal by any one of the entities to the remaining entities.</u>

The distinction of claim 1 over *Schoen* applies equally to the distinction of claim

13 over *Schoen*, and the rejection of claim 13 should be withdrawn. Claims 14-25 depend

directly or indirectly from claim 13 and are allowable for the same reason.

IV.   Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 2, 7, 9, 15-21 and 26-32 under 35 U.S.C. § 103

as being unpatentable over *Schoen* in view of U.S. Patent No. 5,926,792 to *Koppes*.

Independent claim 26 recites: A method implemented at least partially in a

programmed computer for <u>a single stable value fund to provide stable value</u>, the method

comprising: establishing a separate account; receiving a premium for a company owned life

insurance policy; automatically <u>investing a substantial portion of the premium in the single stable</u>

<u>value fund</u> using the programmed computer, <u>the single stable value fund receiving similar</u>

<u>investments by similar entities</u>; and participating in the risk or reward of fund early withdrawal

by any of the similar entities.

The Examiner states that *Schoen* discloses all the features except investment in a

stable value fund and relies on *Koppes* for that disclosure. Applicants first note that just as in the

analysis of claim 1, *Schoen* is directed to a plurality of stable value providers and using that

plurality to reduce risk, while claim 26 expressly recites a single stable value fund. Thus, neither

Schoen nor *Koppes* discloses or suggests individually or in combination all of the features of

claim 26. Withdrawal of the § 103 rejection as to claim 26 is requested. Claims 27-31 depend

directly or indirectly from claim 26 and are allowable for similar reasons.

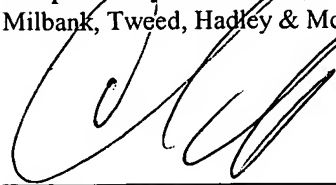Independent claim 32 recites: A method implemented at least partially in a

programmed computer for <u>a single stable value fund to provide stable value</u> to company owned life insurance policy holders, the method comprising: <u>creating the single stable value fund to provide a plurality of stable returns to a plurality of life insurance company separate accounts</u>, the stable returns correlated to a plurality of life insurance policies issued by the separate accounts; automatically receiving <u>investments in the single stable value fund from the separate accounts</u> using the programmed computer, wherein each separate account participates in the risk from early withdrawal by any of the other separate accounts, or the benefit from early withdrawal by any of the other separate accounts; entering into a stable value derivative contract with a wrap provider; automatically calculating a book value per unit for each separate account using a crediting rate and the programmed computer; automatically reporting the book value per unit to each separate account using the programmed computer; periodically resetting the crediting rate; automatically recalculating the book value per unit using the programmed computer; and automatically reporting the recalculated book value per unit to each separate account using the programmed computer.

Just as with claims 1, 13 and 26, claim 32 recites a single stable value fund to provide stable returns to a plurality of separate accounts, and that feature is not disclosed by *Schoen* and *Koppes*, individually or in combination. Withdrawal of the § 103 rejection as to claim 32 is requested.

V.   Request for Reconsideration

Applicants respectfully submit that the claims of this application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,
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14